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December 16, 2024

VIA ECF

Honorable Robert Kirsch, U.S.D.J.
United States District Court, District of New Jersey
Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street
Trenton, New Jersey 08608

The Honorable J. Brendan Day, U.S.M.J.
United States District Court, District of New Jersey
Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street
Trenton, New Jersey 08608

RE: *M.C. v. Harnad et al.*, Case No: 3:21-cv-19819-RK-JBD
**Defendant the Trustees of Princeton University's Letter Seeking to
Strike Doc. 74 and for Clarity on the Court's Associated Motion
Deadlines**

Dear Judge Kirsch and Magistrate Judge Day:

This firm represents Defendant the Trustees of Princeton University (the "University") in the above-captioned matter. The University respectfully requests that the Court strike the most recent pleading filed on December 6, 2024 by Plaintiff M.C. ("Plaintiff") titled "Proposed Corrected Second Amended Complaint and Plaintiff's Motion for Leave to file a Corrected Second Amended Complaint" (Doc. 74) (the "Proposed Filing") or, in the alternative, advise the University if it should treat the Proposed Filing as a second motion for leave to amend and respond accordingly. The Proposed Filing is not merely a "corrected" filing but instead *appears* to have been significantly revised as compared to the previously filed Proposed Second Amended Complaint accompanying Plaintiff's currently pending Motion for Leave to Amend (Doc. 62).

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The University submits this Letter instead of proceeding straight to motion practice in the interest of efficiency and out of respect for this Court's time. The reason for submitting this Letter to your Honors is as follows.

The Proposed Filing is, substantively and effectively, a proposed *third amended complaint*—one that does not have an accompanying motion for leave to file. The Proposed Filing would constitute Plaintiff's *fifth* attempt to state a claim against the University. By way of relevant procedural background, Plaintiff filed an original complaint in the Superior Court of New Jersey, Mercer County, on October 26, 2021, and a "corrected" complaint on November 2, 2021. (Doc. 1, Ex. B.) After the case was removed to federal court, Plaintiff's "corrected" complaint was dismissed by Judge Castner on February 17, 2023, because it did not meet the pleading standards of Fed. R. Civ. P. 8(a)(2). (Doc. 25.) The Court directed Plaintiff to file an amended pleading containing a "short and plain statement limited to the necessary facts" and "explain which specific facts and legal theories support each alleged cause of action." (Doc. 25.) Plaintiff then filed her Amended Complaint on April 14, 2023. (Doc. 27.)

The University moved to dismiss the Amended Complaint for failure to state a claim pursuant to Rule 12(b)(6) on June 1, 2023. (Doc. 32.) On June 28, 2024, the Court granted the University's motion to dismiss and provided that Plaintiff may file an amended complaint within forty-five (45) days of the Order. (Docs. 49 and 50.) In response to a letter from Plaintiff's former counsel seeking additional time to file a second amended complaint, the Court issued a Text Order on August 15, 2024 that provided Plaintiff an extension of time (until September 12, 2024) to file an amended complaint but required that Plaintiff file the amended complaint via motion for leave to amend. The August 15, 2024 Text Order provided:

The Court notes that the Complaint, originally removed to this Court on November 8, 2021, has been dismissed twice, (see ECF No. 22 and 49). **The Court's previous order granted Leave to Amend by August 12, 2024, to give Plaintiff a final chance to plead a valid claim,** (see ECF No. 50). Plaintiff now requests an extension of time. **In light of the age of the case and number of previous decisions, the Court will grant Plaintiff until September 12, 2024, but will require Plaintiff file a motion seeking leave to amend pursuant to FED. R. CIV. P. 15(a)(2).** So Ordered by Judge Robert Kirsch on 08/15/2024.

(emphasis added).

On September 12, 2024, Plaintiff filed a Second Amended Complaint (Doc. 61) but did not file the required motion for leave until September 16, 2024 (Doc. 62). The Court set Plaintiff's Motion for Leave to Amend for October 21, 2024 before Magistrate Judge Day and, in accordance with that motion date and this Court's Local Rules, the University filed its Response in Opposition on October 7, 2024. (Doc. 63.) Plaintiff failed to submit a timely Reply in support of her Motion for Leave to Amend and instead filed a Reply on November 27, 2024 (Doc. 73), long after the Court's October 21, 2024 Motion day and deadline for a reply under the Local Rules.

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More problematic, however, is Plaintiff's most recent filing: the Proposed Filing. (Doc. 74.) Pursuant to this Court's Opinion and Order on the University's Motion to Dismiss the First Amended Complaint (Doc. 49 and 50), and the Court's Text Order dated August 15, 2024 quoted above, Plaintiff already filed a proposed Second Amended Complaint along with her Motion for Leave to Amend on September 17, 2024 (Doc. 62), and the University responded in opposition thereto on October 7, 2024 (Doc. 63). Despite the Court's August 15, 2024 Text Order expressly providing that Plaintiff had one "final chance" to plead a valid claim against the University and that any amended pleading would require leave to amend, Plaintiff's Proposed Filing constitutes a new, third amended complaint, one improperly titled a "Corrected" Second Amended Complaint that, in reality, contains numerous changes and revisions, including changes in the order and presentation of its contents, new (but irrelevant) "factual" allegations, and other changes throughout as compared to the prior Proposed Second Amended Complaint attached to her Motion for Leave to Amend (Doc. 62) which motion has been briefed and is currently pending. Furthermore, although the Proposed Filing is titled "Proposed Corrected Second Amended Complaint and Plaintiff's Motion for Leave to file a Corrected Second Amended Complaint," it does not contain or attach anything that could reasonably be interpreted as a motion for leave to file/amend.

Upon the Proposed Filing being docketed on December 6, 2024, an automatically generated message from the Clerk of Court posted a motion deadline of January 6, 2025—even though there is no motion accompanying or contained in the Proposed Filing. Given the improper procedure and filing at issue, the University respectfully requests that this Court strike the Proposed Filing or, in the alternative, advise whether the University should treat the filing as yet another motion for leave to amend to file a proposed third amended complaint.

Thank you for Your Honors' consideration of this matter. I am available to speak at the Court's convenience.

Sincerely,

/s/ Samuel E. Bordoni-Cowley
Samuel E. Bordoni-Cowley, Esq.

CC: Plaintiff M.C. (*Pro Se*) via ECF
James A. Keller, Esq.
Alexander R. Bilus, Esq. (*Pro Hac Vice*)